IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

Tr.P(Crl.).No. 39 of 2007()

CC.1533/2005 of J.M.F.C.-I, ALUVA

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PETITIONER: COMPLAINANT

RAMEEM K. UMMER, D/O. K.K.UMMER ALI
RAWTHER, KANJIRAMKALAYIL, ETTUMANOOR P.O.,
PIN-686 671, KOTTAYAM DISTRICT.

BY ADV. SRI.K.A.JALEEL

RESPONDENTS: ACCUSED & STATE

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1. K.M.ASHRAF, S/O. MARAKKAR,
(KAI MAKKAR), KANJIRATHINKAL HOUSE,
MATTUMMAL ROAD, THAIKKATTUKARA P.O.,
ALUVA-6.

2. K.A.MARAKKAR, (KAI MAKKAR),
KANJIRATHINKAL HOUSE, PIPELINE ROAD,
THAIKKATTUKARA, ALUVA-6.

3. AMINA, W/O. MARAKKAR K.A.,
KANJIRATHINKAL HOUSE, PIPELINE ROAD,
THAIKKATTUKARA, ALUVA-6.

4. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.S.U. NAZAR.

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 20/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Tr.P.(Cri) NO. 39 OF 2007

Dated this the 20th day of March, 2007

ORDER

The petitioner is the complainant in a prosecution, inter alia, under Sec.498A of the IPC pending before the Judicial Magistrate of the First Class-I, Aluva. Proceedings have been initiated on the basis of the complaint filed by her before the learned Magistrate. Cognizance has been taken. The respondents/accused have already entered appearance through counsel. The short prayer of the petitioner is that the case may be transferred to any other court at the neighbouring District Kottayam at Ettumanoor.

2. What is the ground? The short contention of the petitioner is that she is being intimidated by the respondents/ accused. In these circumstances, a fair trial is not possible at the Court of the Judicial Magistrate of the First Class -I, Aluva, and it is prayed that there may be a transfer as prayed for.

3. It is not necessary that the petitioner must appear on

every date of posting before the learned Magistrate. The petitioner's personal appearance need be insisted only when the evidence is to be recorded or for any other reason to be specified by the learned Magistrate. I am satisfied that sufficient circumstances are not brought out to justify the prayer for transfer. The interests of justice shall be eminently served by directing that the learned Magistrate must permit the petitioner – a woman/complainant, to be represented by her counsel on all dates of posting other than dates on which day her personal presence is necessary for the progress of the trial. The learned Magistrate shall issue specific directions showing the reason for her personal presence if necessary. It shall be open to the petitioner to complain to the police of any interference/threat to her right to appear peacefully before the learned Magistrate and take part of the proceedings.

4. With the above observations, this transfer petition is dismissed.

5. Hand over a copy of this order to the learned counsel for the petitioner.

(R. BASANT, JUDGE)

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